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Catalunya carolíngia and the public nature of the great domain according to legal documents from the 9th and 10th centuries

Josep Maria Salrach*
Institut d'Estudis Catalans

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Abstract

With the publication of all Catalan documents prior to the year 1000 in *Catalunya carolíngia*, the research into this period is now set to move forward on many fronts. This article shows this via a study of legal documents which shed light on social groups and their conflicts and reveal how the rulers used the villas and control over the public properties and rights in them to organise the government, capture the surplus and create the great domain that was the forerunner to the seigneuries.

Keywords: villa, public properties and rights, *servitium, fiscum,* allodium, domain, *aprisio*

Catalunya carolíngia. Overview and prospects

The vast undertaking of publishing all the documents on Catalonia from prior to the year 1000, which the Institut d'Estudis Catalans agreed to compile and publish on 9 April 1920 on the proposal of the History-Archaeology Section, can now be considered concluded. Ramon d'Abadal, who was in charge of this project, assembled volume II, which was delayed due to different circumstances, including the loss of the work in the press in the war of 1936-1939, which is why its publication date is cited as 1926-1950. This volume contains the Carolingian sovereigns' precepts in favour of cathedrals, monasteries and private individuals in the Catalan countships.[1] Abadal also prepared volume III by himself, which was devoted to the countships of Pallars and Ribagorça; it is divided into two volumes, the first of which is an extensive introductory study devoted to narrative and diplomatic sources and to social, economic, political and religious history.[2] This volume was published soon after volume II, in 1955. Later, as Abadal was writing books and articles on the High Middle Ages, he continued to collect documents for *Catalunya carolíngia* and prepare them for publication, following the general plan that he had drawn up himself.

When Ramon d'Abadal died on 17 January 1970, the Institut d'Estudis Catalans commissioned a committee made up of Miquel Coll i Alentorn, Josep Maria Font i Rius and Anscari M. Mundó with the task of organising the next stage in the project by contacting the contributors Abadal had planned to use, looking for new ones and changing the plan as needed. For example, they decided to lighten the part devoted to an introductory study on each countship. Despite his intentions to do so, Abadal was unable to write volume I of the collection, which was going to outline the overall evolution of the countships in the 9th and 10th centuries, but he did work on it with the assistance of Jaume Sobrequés. The first part of this volume was issued in 1986; it was organised into five chapters, which are the outcome of the revision and adaptation of the five studies that Abadal had previously published covering from the Muslim occupation to the death of Louis the Pious in 840.[3]

After being at a virtual standstill for years, *Catalunya carolíngia* was resumed in the 1990s under the supervision of Anscari M. Mundó and Josep Maria Font i Rius, who were in charge of overseeing the work by the curators of volumes IV, I, VI and VII thanks to the final push by Ramon Ordeig, who was charged with editing the documents from Vic and Manresa.[4] Shortly thereafter, with the assistance of Ramon Ordeig, a group of three mediaevalists, the master Santiago Sobrequés and then then-youthful historians Sebastià Riera and Manuel Rovira, were charged with editing the documents from the lands of Girona,[5] while the Roussillon historian Pere Ponsich curated the publication of documents from the Roussillon, also with the collaboration of Ordeig.[6] In terms of the publication of documents, the collection ends with volume VII, which includes the documents from the countship of Barcelona,[7] and VIII, which includes documents from the

* **Contact address:** Josep Maria Salrach. Institut d'Estudis Catalans (IEC), Secció Històrico-Arqueològica. Carme 47. 08001 Barcelona, Catalonia, EU. Tel. +34932701628. E-mail: sha@iec.cat

countships of Urgell, the Cerdagne and Berga, both of which have also been published. Volume VII was overseen by Ignasi J. Baiges and Pere Puig and volume VIII by Ramon Ordeig. Gaspar Feliu and Josep M. Salrach, whom Anscari M. Mundó (who died in 2013) and Josep Maria Font i Rius (who died in 2018) asked to collaborate on overseeing volume VII, succeeded them. Right now (November 2021), the second half of volume I dedicated to the history from the period 840-1000 remains to be written, which may also be finished, at least its draft, by 2022 or 2023. This would then complete the collection as it was envisaged by Ramon d'Abadal. However, there are now plans to add a Volume IX, work on which is already underway, to be published by 2022 or 2023. This volume will contain a general chronological index of the documents of the collection, the epigraphic inscriptions from the period and the documents that have come to light since those from the corresponding countships were published.

With the exception of volume II, which is devoted to the aforementioned Carolingian precepts for Catalonia, all or almost all of them granting and confirming properties and many others granting exceptions and immunities, the remaining volumes, which are devoted to the countships, contain a heterogeneous array of documentation, most of it hereditary, almost all from Church archives, with the exception of a few seigneurial archives, including the comital and later royal archive of Barcelona. Sales among private individuals are the most prevalent kinds of documentation, followed by donations from private individuals to Church institutions and barters, pledges and agrarian contracts. There are also sales, donations and exchanges of castles, fiscal properties and rights or properties held by fiscal right or authority, and of vineyards owned by *complantatio*, that is, by the conditional donation of lands to plant grapevines, which is expressed with the formula *ad complantandum vinea*, and agrarian *precarias* or establishments to create farms. All of this reveals that pledges, usually involving lands, were the easiest way to secure credit during this period.

After the documents related to transactions involving lands and other properties, the next section in order of importance in the volumes of *Catalunya carolíngia* is legal deeds. First are sales and donations of properties obtained from the legal execution of pledges as a result of unpaid loans. However, the most representative documents from the administration of justice are trial proceedings, notifications of plaints or the equivalent, a considerable number of which exist. There are also many definitions, evacuations and forfeitures, which would correspond to what today we would call enforcements of rulings. In direct relation with the administration of justice are donations to atone for misdemeanours or crimes, beginning with the *traditio* of perpetrators of homicide, followed by simple compositions for theft or damages. Conflicts resolved via negotiated agreements, with or without the assistance of mediators, or with arbitration, are also quite common in the collection. One of the most curious types of documents, many of which are found, are the proceedings of legal sessions devoted to the *reparatio* of lost deeds via witness statements.

Naturally, the documents in these volumes include wills, which were followed by certifications. Certifications of wills are one type of document from the Visigothic legal tradition that was paradoxically unknown in the rest of the northern part of the Peninsula. They are the proceedings of real judicial sessions in which the witnesses appearing in the ruling on the last will and testament swear to the veracity of the will under oath. This trial, as stated in the documents, was the proceeding in which the will was made public and the executors' judicial mandate to execute the provisions of the will was formalised. Certifications are a minor example of the exceptional nature of the Catalan documents from the 9th and 10th centuries. As illustrated above, despite the losses, it is rich, varied and exceptionally extensive compared to the documents in other regions in Western Europe.

Many historians before now have researched the history of Catalonia prior to AD 1000 and are, in fact, quite familiar with the documentation compiled in *Catalunya carolíngia*. Catalan historians like Ramon d'Abadal, Cebrià Baraut, Anscari M. Mundó, Gaspar Feliu, Ramon Ordeig, Jesús Alturo and Ramon Martí, and non-Catalan and Spanish historians like Pierre Bonnassie, Michel Zimmermann and Jonathan Jarret have invested a great deal of effort in studying these writings, which are unique in the world in terms of the quantity and quality of information they contain. However, all these historians and many others have had to search for the documents for their research in countless archives, cartularies and diverse, dispersed document collections, both ancient and modern, with the obvious difficulties entailed in locating and consulting them. However, this difficulty is over because researchers from all over the world will now have all the Catalan documentation and documents for Catalonia from the 9th to the 10th centuries in a single rigorous publication assembled by reputable historians and palaeographers which is as comprehensive as it can be today. There is no doubt that an in-depth study of the thousands of documents in this collection will update our current knowledge, nuance and correct information and interpretations, open new avenues of research and perhaps even build a new interpretative paradigm on Catalan society and its structure, functioning and dynamic 1,000 years ago.

Not too many years ago, when volumes VII and VIII of *Catalunya carolíngia* were being readied for publication, this author was able to work with all the documents in the collection and prepare a preliminary global study on the practice of the administration of justice in Catalonia before the year AD 1000.[9] At that time, we were fascinated by the course of trials and the social scene revealed by the legal and conflict-resolution documents. This is why this study of justice is packed with case studies, particularly summaries and analyses of trials. In the lines below, I shall also try to demonstrate the wealth of documentation from

Catalunya carolíngia by approaching it from a perspective that has barely been studied: the public nature of the great domain.

The public nature of the great domain

The domains in the High Middle Ages, just like the seigneuries into which they later segued, were twofold in nature: hereditary and public. We shall use the concept of hereditary to refer to the assets and rights possessed as property which could be transmitted within families by inheritance, just as a given post in the Church could be transmitted by succession. These properties and rights shall be omitted from this study. By the public nature of the domain, I mean the fact that the domain originally got part of its properties and rights in a legal proceeding about authority. We shall devote this study to these properties and rights, which seemed crucial in the origins of the great domain in Catalonia, and we shall do so with the information provided by the judicial documents in *Catalunya carolíngia*.

The adjective "public" which we shall use in this paper comes directly from the documentation, where it is used to describe a person or mandatary who performs functions and exert powers over the population as a whole via delegated authorities: the expression *iudex publicus* is omnipresent, but so, for example, is *reipublicae exactor*. The adjective "public" is also used in the documentation from the 9th and 10th centuries to describe the nature of the function or action exercised by people endowed with authority, such as the *investigatio publica* conducted by judges. We shall also use expressions like "public properties and rights" and "fiscal properties and rights" indiscriminately to refer to the lands of the *fiscum* or *fisci* (in the documents) and the public taxes or tolls owed to the *potestas regia* and their mandataries or beneficiaries. In Carolingian Catalonia, public or fiscal properties or rights were the material base upholding the counts' authority and, as we shall see, the Church's authority as well. It is common knowledge that in 9th-century Catalonia, the *potestas regia* lay with the Carolingian monarch, who held the supreme power (*potestas* and *auctoritas*), while the other authorities like the judges (*potestas iudiciaria*) held delegated powers. However, in the 10th century, when the counts' power became hereditary, the *potestas regia* was actually held by the counts, such that in a trial in 1018 the mandatary of the Count of Empúries was able to say that "the authority that the (Carolingian) kings used to have here, the count now has".[10]

We shall base our study of the public nature of the great domain on judicial documentation, because it seems to be the most appropriate kind for this purpose. The study shall be divided into three parts. In the first part, we shall examine the land of public or fiscal origin comprising the great domain and the conflicts specifically associated with it; in the second, we shall examine the men who were the prime parties in the conflicts; and in the third, we shall look at the profits that the *dominus* could earn from the men who lived on and farmed on this land. To cover the objectives of the first and second part, we shall limit ourselves to studying and drawing conclusions from a small group of legal deeds related to the episcopal domain of Girona, which are quite well known.[11] For the purposes of the third part, which is to ascertain the public taxes owed by the peasants to the *domini* who had the right to them, we shall draw from a range of legal documents where these taxes frequently appear.

Land

It is difficult to assess what the Muslim invasion and Islamic dominion represented on the Peninsula, but it is nearly impossible to banish the idea of a before and after time. Had the large properties of the aristocracy and the Church during the Visigothic period survived the Muslim invasion unchanged? Did they continue and survive the Carolingian conquest unchanged? And therefore, did first the Islamic and then the Carolingian dominion affect them? Did each conqueror respect the pre-existing property rights, or did they confer the principle of all rights on themselves?

Our hypothesis is that if part of the aristocratic properties in the early 8th century survived, they did so with major changes, and that the majority of large properties, the kind that appear in the documents from the 9th and 10th centuries, were then arranged based on the new political situation created first with the conquest and then with the dominion of the Carolingians and the Catalan counts. The land conflicts which we shall examine below can be better understood from this perspective of change, and they are somehow also proof of it.

In the Carolingian era, the domain of the cathedral of Girona was comprised of around 40 villas and farm hamlets, which were the spaces that fed the peasant communities and fiscal districts. As spaces of sustenance they may have had ancestral origins, but as fiscal districts they must have dated from the Carolingian era. This series of villas and farm hamlets, with the wealth that the *dominus* drew from them, along with other incomes from other estates, were meant to guarantee the exercise of the episcopal function in Girona via the fulfilment of the religious and civil tasks assigned to the bishop and his retinue. Even if there were prior properties in this domain, which we do not know, their origins as a domain were actually restored if not created by Charlemagne and were later confirmed and expanded by Louis the Pious and the subsequent Carolingian monarchs. We can deduce the origin from a witness statement made in 817 in the Sant Andreu altar in Borrassà, in the territory of Besalú, when eight witnesses declared before two imperial *missi*, Bishops Nifridi of Narbonne and Cristià de Nimes, and seven judges on an acknowledgement of boundary made years earlier,[12] most likely between 785 and 800. At that time, Ragonfred, a count palatine, and two dominical judges went to the villa

of Bàscara in the Alt Empordà on behalf of Charlemagne and there, with the assistance of no fewer than seven witnesses who were familiar with the land, traced the terms of this villa and identified the boundary markers (*archas et fixorias et vindenates*). After having done that, they invested the bishop with the villa with the corresponding witness oaths.[13] We can assume that the very ritual of creating, acknowledging and confirming terms and investitures was repeated in all the villas with lands in Besalú and Empúries that comprised the episcopal domain of Girona after this initial period. Our hypothesis is that by walking around the lands, Ragonfred and the dominical judges were creating the villas as fiscal districts.

However, what exactly was the Carolingian monarch giving through this act of investiture? The answer can be none other than the fiscal properties and rights of the villas, along with the public authority over them. Thus, the bishops of Girona, the beneficiaries of the donation, which subsequent kings confirmed with precepts confirming properties and granting immunity,[14] became the governors of the men in their domain, whom they judged and demanded charges or public taxes from, in addition to specific taxes or renders paid by the peasants who cultivated the non-private *fisci* or fiscal lands.

As expected of any lord in his domain, the bishops were concerned with not only preserving its integrity but also expanding and getting the most profit from it. To do so, they used the judicial power which had been invested in them. Hence, we see bishops presiding over trials on issues related to the villas in their domains in the years 841, 881, 888, 892, 893, 900, 903 and 921.[15] When the cases clearly concerned the men and the lands in the domain, they were settled before the bishops and the judges in their court. However, when the decision was whether certain lands were inside or outside the domain, that is, the terms of the episcopal villas, and when the parties involved were not (or not solely) the bishop's men, the composition of the court became more complex. The bishop presided, but there were also counts and viscounts, who seemed to attend the trial with their own judges, and the group of *boni homines* also included the counts' vassals, alongside clergy and other men from the bishop's retinue.

In all or almost all the trials we shall examine here, the essential issue debated was landownership. When their lords' rights had to be proven, the bishops' mandataries invoked and held up the Carolingian precepts granted to the cathedral, which were a superior prevailing legal deed. The private individuals accused of improperly holding a plot of land, vineyard or farm sometimes tried to claim that they owned it because they had purchased it. The judges in these cases examined the accused parties' purchase deeds and requested the presence of the authors or witnesses of the land sales, to no avail. They then ruled that the deeds were invalid and had to be destroyed, while the losers were obligated to sign a forfeiture of their supposed rights.[16]

In other trials, the issue was more complex because when faced with the episcopal mandatary's accusation of improper appropriation, the accused parties argued that the lands were outside the terms of the episcopal villas, so they could not be owned by the bishop. This argument forced the judges in these cases to investigate the terms of the villas and debate whether certain hamlets or farms were inside or outside them.[17] This was generally done by taking witness statements about the terms of the villas, sometimes with on-the-ground eyewitness investigations to identify the boundary markers. These trials are precisely where we find the presence of counts and viscounts, and possibly judges from their courts, alongside the bishop and his judges. And this was not a minor matter. For example, did the hamlets of Abderama and Terradelles from trials in 841 and 842 belong to Bàscara, and therefore to the episcopal domain, or not?[18] The precepts for Girona cathedral from Louis the Pious, dating from 834, and Charles the Bald, from 844, confirm that the issue is pertinent.[19] When Louis the Pious described the episcopal domain in his precept, he limited himself to saying that the cathedral owned the villa of Bàscara with its farm hamlets, along with the village of Espolla and another hamlet within its terms. The precept does not say it, but the bishop considered the hamlets of Terradelles and Abderama part of Bàscara, and therefore his. Those who lived there, or some who held lands there, and the Count of Empúries, who must have wanted the public rights, denied this. The dispute may have been one of the reasons propelling the bishop to meet with Charles the Bald and ask him for a new precept, the one from 844, which situates Terradelles and Abderama explicitly within Bàscara.

In our view, all these circumstances originate in the situation of the villas when Charlemagne's envoys conducted the investiture in favour of the cathedral. Because the region had been a war front at different points in the 8th century and a region through which expeditionary armies had travelled, it is logical that in the 9th century it was partly uninhabited, with much of it wasteland, which was by law public or fiscal lands.[20] Therefore, the bishops' objective had to be installing farmers there who would clear the lands and become their tenants who would pay renders and taxes. However, from the very start, the bishops encountered people originally from these villas or nearby or who had previously moved there. They were most likely occupying the lands by *aprisio* and had made or were making the wasteland farmable, and had brought or were bringing crops, or had planted vineyards where there were none with the hopes of becoming their owners, which they would if they managed to hold onto the land for 30 years. As the owners of all the public lands in the villas, including the wasteland, the bishops were the only ones who could legally authorise *aprisio* on them. The bishops thus deployed their judicial machinery in order to prevent clandestine cases of *aprisio* holders laying down roots as private landowners.

The lands originally cultivated were likely near the zones where the settlements tended to coalesce, inside the villas, while the wasteland was further away, towards the terms of the villas. New farms cropped up there, farm hamlets, which may have overstepped the terms and encroached into neighbouring villas, which were part of the countship's public domain, and vice-versa: when lands held by *aprisio* that began inside the terms of the neighbouring villas encroached into their lands. This explains why in some conflicts, as mentioned above, the court include not only the bishop and his judges and vassals but also counts and viscounts, and perhaps the counts' judges and vassals. With their presence at these trials, and that of their judges and vassals, the counts were making sure that the terms of the villas respected their rights, and they may have also been protecting tenants whom they authorised to work in *aprisio* in the area, from whom they did or could earn taxes and services. A trial from 881 is illustrative of this: it had to determine whether a plot of land held in *aprisio* fell inside Ullà, the episcopal villa, or *Bitinga*, in Bellcaire d'Empordà, which was the countship's villa of public domain.[21] And a similar trial was held in 888 on whether a tract of land was located in Ullà or Torroella.[22] In both trials, the court was presided over by the Bishop of Girona and the Counts of Empúries.

What did the bishops expect from these trials? Most importantly they wanted to prevent private holdings from being created inside the villas, and along the way to set favourable terms, if possible. Evicting an unauthorised tenant farmer when the land was being cultivated to instead install their deputy there, who would pay not only public taxes but also probably dominical renders, was good business. But keeping a tenant farmer in *aprisio* could be, too, if they agreed to acknowledge the bishop as the owner and himself as the deputy willing to pay taxes and renders. This was likely the resolution sought in the trials.

The men

Holding lands under the *aprisio* system was not easy. It required the prior accumulation of reserves which were unlikely available to all peasants. Some of the parties in disputes with the bishop may have been peasants, but others were likely not. Perhaps the 19 people brought to trial in 921 were. They had built houses and planted grapevines within the term of Vilademuls, they said, not Bàscara, as the bishop's mandatary claimed. Both fell in the countship of Besalú, but Bàscara was an episcopal villa and Vilademuls belonged to the count, so the Count of Besalú presided over the trial alongside the bishop, and there were seven judges on the court, an exceptionally high number. Thirteen witnesses presented by the bishop's mandatary stated that before the grapevines were planted the land had been owned by the bishop and was within the terms of Bàscara, as stated in the royal precepts. Later, they provided details on the terms of the villa, added that the grapevines were illegally planted against the will of the bishops and concluded that the villa of Bàscara with its farm hamlets and terms were the property of the bishop and therefore had to be subjected to the usual farm system in the episcopal domain: *ad regendum more episcopali*.[23] After this witness statement, the 19 defendants had to concede and acknowledge that they had built the houses and courts and planted the vineyards near the term of the villa, but inside Bàscara, not Vilademuls, which meant, they admitted, that they had to forfeit their rights and acknowledge the bishop's right to govern that land following custom.[24]

Other opponents of the bishops in trials had profiles that did not seem to fit easily into the category of mere peasants. One example was a man named Pipí, alias Abderama, in a trial from around 842, who must have taken the land in *aprisio* and founded a farm that bore his name (*villare Abderama infra terminos de Baschera*); he did not go to the trial alone but was accompanied by the mandatary of the Count of Empúries.[25] In this case, too, it was essential to determine whether Abderama, the hamlet supposedly created by Pipí, was inside or outside Bàscara and therefore whether it was under the authority of the bishop or the count. Pipí lost the trial, which confirmed that Abderama belonged to Bàscara.

A man named Revell also seemed to be a local eminence; he was accused of illegally taking (*invasio*) lands and other properties from the same farm hamlet, Abderama, and from other hamlets in Bàscara in trials held in 892 and 893.[26] Revell defended himself with the argument that he had received some of them in benefice from the bishop, that is, not in exchange for renders, and had purchased others, which hypothetically might have been illegal *aprisio*, but he lost the trials because the bishop's mandatary denied the benefice and Revell was unable to present the sellers and submit proof of sale. In one of the trials, Revell explained that he was sold the farm that the bishop was disputing, which was comprised of houses, courts, gardens, fields, vineyards, flax fields and a mill, by the grandson of the same Pipí from the trial 50 years earlier. This seems to indicate that those who lost trials were not necessarily expelled from the land but could remain under certain conditions, which perhaps they were unable to meet, as might have occurred in this case. Revell's argument of the benefice and his recourse to false deeds do not seem to match the picture of a simple peasant, and he must not have been one if we bear in mind that this trial was attended by up to eleven vassals of the Count of Empúries.[27] In fact, in a subsequent lawsuit from 893, this same Revell admitted that he illegally felled 17 fig trees on the bishop's lands in the hamlet of Abderama, which may well have been an act of vengeance by an aggrieved vassal. If we accept this, we might also accept that the lord and vassal reconciled afterwards, and that the Revell who lost to the bishop in the trials in Bàscara in 892-893 was the same who appeared serving that same bishop as a civil servant and mandatary in the trials in Ullà in 900 and 903.[28]

The conflicts of the prelate of Girona in his domain seem local, but they are not. In some cases, they involved the counts and their vassals, and they sometimes reached the court, albeit indirectly, as we saw in the disputes over the farm hamlets of Abderama and Terradelles. They are even related to the major conflicts in the Catalan countships in the 830s and 840s. In the early 830s, "malevolent men" were disturbing the properties in the episcopal domain, as recalled by Louis the Pious in the 834 precept. And while governing the lands of Girona (834-844), the powerful Bernard of Septimania acted despotically and arbitrarily against the properties and rights of nobles and prelates loyal to the king. He seized the villa of Far d'Empordà from the Bishop of Girona, as Charles the Bald recalls in his precept of 844,[29] plus most likely one-third of the teloneum and pascuarium from the lands of Girona and Besalú, as the Count of Empúries did on his lands, as we shall see below.

The teloneum, a tax on market goods, and the pascuarium, a tax on livestock holdings, were an integral part of the counts' endowment or benefice in their countships until 834,[30] when Guimerà was made Bishop of Girona and Louis the Pious gave him one-third of the teloneum and pascuarium from the lands of Girona, Empúries, Peralada and Besalú. At that time, Count Bernard, who governed the countships of Girona and Besalú on behalf of the king, and Count Sunyer, who governed those of Empúries and Peralada, had to accept this arrangement and make the investiture of one-third of the teloneum and pascuarium from the countships to the bishop. Having made the investiture, unwillingly we imagine, Bernat and Sunyer must have taken advantage of the wars towards the end of Louis the Pious' reign and the monarch's death in 840 to regain their third. However, the situation must have begun to shift in favour of the bishop, as seemingly indicated by the trials of Bàscara and the return of the third of the teloneum and pascuarium from Empúries and Peralada which Count Alaric of Empúries secured in 842, also in a trial.[31] The recovery of the bishop's temporal rights must have culminated in 844 with the aforementioned precept from Charles the Bald, dovetailing with the capture and execution of Bernard of Septimania in Toulouse for treason.

The plaint against the bishop, then Gotmar, submitted shortly thereafter, in 850, by a man named Lleó must have stemmed from these conflicts between the prelate of Girona and the counts, especially Bernard, his family and his loyalists. Lleó lodged the plaint against the bishop because, he claimed, the latter had seized a farm in Fonteta (houses, courts, lands and vineyards) from him which his father had acquired by *aprisio*, like other *Hispani*. The plaintiff grounded his right on the wasteland cleared many years earlier with the permission of the king or his representative, the count, while the bishop's rights came from Charles the Bald's donation of the villa six years earlier.[32] Convinced of his right, Lleó complained to the king, who responded that if this were so, the bishop should return the *aprisio* to him. And as the bishop listened to the monarch's letter being read, Lleó repeated his accusation. At that point the judges asked the bishop's mandatary for a response, and he said that the episcopal possession was based on a prior judicial admission (*professio*) by Lleó himself, which acknowledged that his father had not cleared the land in *aprisio* but another person had, and that what his father held in Fonteta was a benefice from Count Guillem, who had since died.[33] While the bishop's mandatary presented Lleó's *professio* to the judges, Lleó was still arguing that he had made it under duress, but because he was unable to prove that, he ultimately had to acknowledge that the properties in dispute were owned by the bishop by royal precept.[34]

We should underscore that Lleó belonged to the privileged group of *Hispani*, which enabled him to appeal to the monarch and take the bishop to court. In reality, his family held no land by *aprisio*, as he was forced to admit, but instead they held it by benefice from the count, which corroborates the notion that he was an important person. So does the fact that he was a loyalist of Guillem, who had been executed for treason shortly before the trial, just as his father Bernard of Septimania had been years earlier, which fits with what we said above that this count usurped goods and rights of the Bishops of Girona, loyalists of the monarchy. This loyalty to treasonous counts paid with the benefice could explain why Lleó tried to keep the benefice by appealing to his status as a *Hispanus* instead of as a beneficiary of the traitorous deceased count. In any case, a reading of the Carolingian precepts helps us even better understand what happened in Fonteta. This villa was seized by the king from his enemy, the traitorous Bernard of Septimania, and donated to the cathedral in 844. Until then, just like many other villas, it had been subjected to the authority of the count. We can assume that the public properties and rights in Fonteta had been administered for profit by Bernard of Septimania, his son Guillem and some of his loyalists, perhaps Lleó himself. If Lleó or his father were *Hispani* living in Fonteta for some time, or during the time of Bernard of Septimania, from whom they may have received the benefice of the lands, Fonteta's shift from being a *fisci* of the count to the Church via the act of the bishop's mandataries taking possession of it on behalf of the new owner (*invasio*, according to Lleó), thereby revoking the benefices granted by the previous lord, must have necessarily sparked conflict. The new lord wanted to make use of the villa for him or his vassals. Lleó's problem must have been that with his lords and guardians dead, he had no legal deeds supporting him, and that he belonged to a losing political faction.

In defence of the territorial integrity of their domain, their control over the men living there and their right to exploit the land and the labour as they wished, the bishops litigated with people with different social statuses, from mere peasants to minor lords. Lleó was one of the latter. His power came from his political status: he was a *Hispanus*, a privileged political minority whom the monarchy had guided towards the specialised military service

on the orders of the counts, who gave them land benefices. He was not the only *Hispanus* within the episcopal domain. In 881, a man by the name of Andreu was called to trial. Bishop Teuter of Girona and Counts Delà and Sunyer of Empúries presided over the court, accompanied by Viscount Petroni, and there were eight judges, some of them episcopal and the others most likely from the countship. The bishop's mandatary accused Andreu, a private individual, of having a farm in Ullà, in the Baix Empordà, which was owned by the bishop by royal precept, and claimed that Andreu was usurping it by arguing that it was an *aprisio* he cleared within the terms of a villa called *Bitinga* (Bellcaire d'Empordà). Interrogated by the judges, Andreu responded that he owned the property legally by *aprisio* and royal precept within the terms of the villa *Bitinga*, just like other *Hispani*. It was precept against precept: the court had no choice but to admit the validity of the ownership deeds of both litigants, and it ruled that the property would be split, taking into account the division between the villas. To this end, the judges climbed Montgrí, the location of the term, measured the lands, divided them according to Visigothic law, ordered milestones installed and assigned half the farm to each party: the bishop the part in Ullà and Andreu the part in *Bitinga*.[35]

The bishop was the lord of his domain, true, but as just illustrated, his domain had limits which politics determined through justice, limits that the Roman-Visigothic ceremonial act of acknowledging terms superimposed upon the land. Clearly, not all *aprisio* holders or all *Hispani* with *aprisio* were powerful enough or had sufficient reasons to successfully challenge the bishop. One example must have been Adiscle, who filed a lawsuit in 888. Bishop Teuter and Counts Delà and Sunyer also presided over the court, accompanied by the Viscount Petroni and eight judges. Adiscle accused the bishop of usurping a land that he owned which fell within the terms of Torroella. The bishop's mandatary responded that the land was within the terms of Ullà and that the bishop owned it by law through longstanding possession, witness statements and royal precepts, and he submitted the documents. The judges then asked Adiscle if he could prove the accusation, and he ultimately answered that he could not and accepted that the land was within the terms of Ullà and owned by the bishop.[36] An accusation like this one, from lower to higher on the social ladder, could be made by a mere peasant.

To conclude: men like Pipí, Revell, Lleó, Andreu and Adiscle were not mere peasants. They were representatives of an intermediate group whose features are still somewhat imprecise, somewhere between simple peasants and the aristocracy (counts, bishops, viscounts and veguers), whom we could define as the group of landowners and minor local lords who held offices (mandataries, civil servants, vassals) and perhaps gained benefices from the great lords, who authorised their *aprisio*, if it was worthwhile to them. These men, who managed seigneurial interests, also had their own interests, which may or may not have matched those of their lords. They most likely wanted to appropriate the benefices and make them transferrable by inheritance. Therefore, the conflicts are easy to understand: to maintain the authority in a domain, the lord needed not only to make sure that those who took land in *aprisio* without their authorisation did not get away with it, but that their mandataries on the ground could depend on themselves, and if they became economically independent, would not depend on them. These men were essential in the Carolingian system of collecting and distributing the surplus. However, their fate was associated with that of their lords, and in the Carolingian system the fate of the powerful depended on the political estate: on the distribution of offices and honours. Every time a new person took public office, a count at the helm of a countship and a bishop at the helm of a diocese, their collaborators and mandataries rotated. When they took possession of these offices, counts and bishops came to manage a set of public properties and rights: the comital and episcopal domains and the public taxes of countships and dioceses. And by taking possession of the offices, the counts and bishops used these properties and taxes to reward allegiances and pay for services by assigning benefices and offices, which entailed a remodelling. Naturally, this could only be done by divesting some to invest others, with all the consequent resistances and conflicts. Therefore, the counts' shift from being beneficiaries to owners, as mentioned above, in the 10th century is no coincidence; it is a link in a larger chain, the process of feudalisation, which would end up making everything – offices, benefices and honours – hereditary.

As also discussed above, in and around the villas of the Bishop of Girona there were *Hispani*, a privileged group comparable in power and functions to the landowners and minor local lords we have just discussed. Groups of *Hispani* moved to these villas and other nearby lands after Girona was brought into the Carolingian domain towards the end of the 8th century. They probably came from Septimania, where Charlemagne had installed them a few years earlier, to serve the same purpose in Girona that they did in Septimania along with the counts, from whom they could receive benefices: to boost the population through *aprisio*, to organise the local administration, to create local networks of dominion and control and to take on defensive tasks. To do all this, the monarch assigned them wastelands in the fisc directly or via the counts' mediation, which they took in *aprisio*, lands which the monarchy could later give them as property, if needed. The *Hispani* held a privileged status which exempted them from public taxes, associated them directly with the count for military service and gave them a significant margin of autonomy on judicial matters, but precisely for this reason they must have become difficult to control.

Taxes

People, the properties they owned and the wealth they produced could be charged different kinds, volumes and

intensities of economic obligations, which we could collect under the umbrella term of taxes. In 9th- and 10th-century villas, the peasants paid these obligations or taxes to their lords, who earned them through the twofold nature of their domains. Thus, for the patrimonial lands of the domain that the peasants may have held and cultivated, they paid dominical renders, and for the fiscal or public lands that the peasants may have held or cultivated, or simply made use of, they paid public taxes. The people who lived in the villas, which were fiscal districts by definition, also paid taxes for the mere act of living there or existing and living there. In the lines below, we shall justify this and try to provide more details on the nature and content of these public taxes.

In an 875 trial in Roussillon, the Bishop of Elna, represented by his mandatary, stood against a loyalist of the count. At issue was the authority over the men living in Sant Feliu in La Roca d'Albera (*homines commanentes*) and its land, which the count's loyalist said he owned thanks to the count and to serve the king (*ad servitium regis exercendo*), but which the bishop's mandatary claimed the bishop had long owned. The judges asked the parties for proof: they asked the loyalist for witnesses or deeds to prove that he owned the estate through benefice or *aprisio* from the count, such that the men living there had to pay him the *regalem servitium* (*homines loci illius commanentes servitium regis persolvi debeant*), and they asked the bishop's mandatary for proof in favour of the bishop's rights, if any. The mandatary managed to prove the episcopal rights with documents, while the count's loyalist did not; therefore, the loyalist was forced to admit that Sant Feliu in La Roca d'Albera belonged not to the count but to the bishop, and therefore that the residents were not obligated to pay him (*persolvi*) the *regalem servitium* or *servitium regis*.[37]

Let us examine this more carefully: the core issue in the lawsuit was whether the men of Sant Feliu lived in an estate or village that belonged to the episcopal domain of Elna or the public domain in the sense of the set of villas and estates that depended on the Count of Roussillon and his loyalists (mandataries and agents). The men dependent on the counts in these villages or estates were subjected to taxes which financed the services that the counts and their loyalists performed as mandataries of royal authority; hence, more than referring to these taxes with a specific proper name, they were identified by their function or purpose: to pay for the king's services or in fact to pay the loyalist who rendered these services (*regalem servitium* or *servitium regis*). As is easy to imagine, these resources were meant to maintain the powers-that-be involved in governance, both small and large, which was surely the source of the greatest wealth and the one that mobilised the most resources. Clearly, when a village and its men were removed from the public domain of the counts by being given as property to a private individual or a religious institution, the inhabitants continued paying the same taxes, but because these taxes were no longer used to finance the services owed to the king, they could still be called a *servitium*, or payment of a *servitium*, but not a *servitium regis*, because they no longer were associated with the king. Obviously, when the counts' power became hereditary in the 10th century, the *servitium regis* continued to be paid in the villas that were in the public or comital domain as what it was, payment for the king's service, in that the counts stood in for the king in all matters.

The celebrated trial in Sant Joan de les Abadesses in 913 corroborates more than contradicts what we have just said. From it, we have the legal affidavit acknowledging rights of the peasants of the valley of Sant Joan in the presence of the brothers Counts Miró and Sunyer, and two viscounts, before seven judges. At the request of the abbess's mandatary and the judges, almost 500 peasants declared that the villages and hamlets where they lived belonged to the abbess and the community, and they justified this by the action of Count Guifré the Hairy, who had arrived in the valley when it was a deserted wasteland, instated *aprisio* with its villages (an expression which might indicate that it was actually not entirely deserted), demarcated its boundaries it and gave it to his daughter, Abbess Emma, on behalf of the king (*per vocem regis*), such that all the men that she and her successors installed there paid the *servitium*. And having this authority over the valley, said the peasants, the abbess installed them and their parents there, who built the buildings and cultivated the wasteland. They added that they did everything on the abbess's benefice, hence they paid her the entire *servitium*.[38]

Then another trial was held the same day before the same court. This time the opposing parties were the comital and abbatial power, who were formally at odds over payment of the public taxes. Before the court, Oliba, the mandatary of Count Miró, who must have held the comital rights in El Ripollès more than Sunyer, demanded that Híctor, the abbess's mandatary, pay the *servitium regis*, that is, the military and other royal services (*hostes vel alium regale servitium*) which the men in the valley should but did not pay their lord, Count Miró. Interrogated by the judges, Híctor responded that the villagers did not have to pay any *servitium* to the count, and he justified this by explaining what we already know: that the valley had been deserted when Count Guifré had gotten there, that Emma was invested on the king's command (*per iussionem regis*) and that the abbess installed peasants there who built buildings and farmed the wasteland on benefice from the abbess. Finally, Oliba admitted that his claim was unjust and ran counter to the law, that the villagers belonged to Sant Joan and that the peasants had to pay all the services (*omnem servitium*) to the abbess, not the count.[39]

Were these trials really necessary? In 899 King Charles the Simple had handed down a precept confirming the monastery's properties and immunity, so since then Emma had been able to fully exercise public authority over the villas and hamlets within the monastic domain.[40] This means that she exercised the functions of public au-

thority – taxation, military, judicial and defence – that the counts exercised elsewhere. The privilege prevented any other authority from intervening in her domains. Therefore, the trials may seem to be an unnecessary formality, but the march towards comital sovereignty, which accelerated after the death and hereditary succession of Guifré the Hairy (897), must have pushed the children of the original settlers, who may have begun to dispute the inheritance, to further clarify each of their rights. On the other hand, if the monastery had been founded and took possession of the valley in the 880s, as it appears, perhaps now, as the legal term of thirty years when *aprisio* turned into ownership was approaching, it may have been time to clarify that everything had been done on behalf of the abbess and the nuns.

Ramon d'Abadal believed that the first trial was held to solidify Sant Joan's dominical rights or ownership over the lands and peasants, who therefore acknowledged that nothing was theirs and everything belonged to the nuns and abbess to whom they owed the *servitium*, which in this interpretation would be the equivalent of dominical renders. He also thought that the second trial was held to clarify Sant Joan's authority over the peasants, who thus fell outside the comital jurisdiction to instead be subjected to the abbatial jurisdiction. According to Abadal, the first trial must have disputed an issue of private law and the second one public law.

This may be true, although the second trial only refers to public taxes (*hostes vel servitium*) instead of all the abbess's rights as the lady of the valley. Either way, it is notable that the second trial was conditioned upon the first one; that is, first the process by which Sant Joan acquired the rights over the lands and the men with their obligations to the abbess and the community was established, and then, based on these rights, the second trial could determine that the peasants and abbess owed the count nothing. This interrelation between the two trials leads us to believe that Abadal's interpretation, based on the separation between public and private, is not as obvious as it seems. Let us further examine this.

The documents said that Count Guifré reached the valley when it was a deserted wasteland (*in eremo vel deserto posita*), an expression which we should probably interpret as meaning that it lacked an authority and owners with acknowledged rights instead of lacking settlers. The clarification about the deserted nature of the valley was legally important because it meant that no previous right was acknowledged other than the king's right over wasteland and deserted lands which, because of their very nature, were part of the fisc. When Wilfred reached the valley and demarcated its boundaries, he was a count acting as a delegate of the king on his behalf and under his mandate. Taking possession of a public land, a *fiscum*, which he then handed over to his daughter, the abbess, whom he delegated, must embody the powers inherent in public authority over those lands, which the abbess was in charge of confirming by imposing the precept in 899. It is not certain –in fact, it is more likely the opposite– that a count became its private owner, that it became his private domain, merely by demarcating a fiscal land. Therefore, Guifré transferred the lands of the fisc in Sant Joan valley, in the region of El Ripollès, to his daughter, and in fulfilment of her father's mandate, Emma took possession of it and installed peasants there, who tilled the wasteland along with those already there, if there were any. Therefore, the public nature of the domain of Sant Joan in El Ripollès, at least in its original sense, seems clear, and therefore so does the payment of the *servitium* to the abbess, which peasants on the lands of the fisc had to pay the counts and their agents in the villas or estates in the private comital domain. In this sense, the *servitium* in the first trial, which the peasants confessed they owed the abbess, was the same *regale servitium* and the same *omnem servitium* that the mandatary of Count Miró acknowledged that the count should not receive from Sant Joan because the abbess was the one who should collect it.

Thus, the documents analysed enable us to claim that there was a nexus between the land of the fisc and the payment of the *servitium*. They also suggest that when it came to be owned by the Church, the land of the fisc did not lose or entirely lose its original nature as fiscal land because those who lived and worked there were subjected to the same obligations as the peasants in the comital villas. This also suggests the hypothesis that the *servitium* that the peasants paid was equivalent to a remuneration for military services (*hostes*) and other services (*alium regale servitium*) that the recipient of the *servitium*, the abbess in this case, provided. Might other documents confirm these hypotheses or simply yield a bit more headway in these research questions?

Let us dig deeper. In 938, more than 100 people, the residents of the township of Artès in the Bages region, were taken to court by the mandatary of Bishop Jordi of Vic (914-947), no doubt to determine the cathedral's rights over the land. Therefore, this is a trial like the one in Sant Joan in 913, this time with Count Sunyer presiding over the court. We are unaware of the arguments and proof supplied by the parties; we only have the outcome, which we shall summarise. On the request or demand of the bishop's mandatary, the men and women of Artès, heads of households, declared that the houses, courts, gardens, lands, vineyards, croplands and wastelands, mills and irrigation channels there were owned by the cathedral because King Odó (or Eudes, 887-898), on the request of Count Guifré, granted it to the cathedral of Sant Pere and Bishop Gotmar (886-899) and to all his successors. Hence, they had to pay the *servitium* or the concept of *servitium* to that church and its bishops, which they used to pay to the kings and counts.[41]

This is easy to imagine. In the 880s, as Count Guifré the Hairy was organising the countship of Osona politically and ecclesiastically, he demarcated the boundaries of Artés valley, at the entrance to the Bages region, which was fiscal because it was deserted or considered deserted, and

he installed settlers there who broke the barren land on his behalf. And by the time Guifré made the donation to the cathedral, there must have been farm hamlets and churches in the valley.[42] Shortly thereafter, in 889, the bishop, who may have wanted to confirm his rights over the cathedral domain (the villa of Vic, the *pagus* of Manresa and Artés valley), asked for and got a precept granting properties and rights from King Odó. It stated that the cathedral's properties were fiscal in origin (*de rebus nostris*) and that the *servitium* and the *obsequium* that the inhabitants of the domain had had pay the counts would from then on have to be paid to Bishop Gotmar and his successors.[43]

The *servitium* was associated with the land of the fisc, in the sense that it was paid for that land, and it was also associated with the men living in the villa or valley where the land was located. Identification of the villa or valley and its terms, with explicit acknowledgement of who owned or possessed it, was essential in trials because that party held the rights of the fisc in the estate. Around 50 heads of households living in Vallformosa (Rajadell), also in Bages, who were taken to trial by the mandatary of Count Borrell, who claimed the valley with its terms, managed to demonstrate that they had owned the lands for over 30 years (*hodie triginta annos abet et amplius quod possident predicta valle cum suis terminis ad illorum proprio*), that is, without anyone else claiming them, and therefore because the public rights of the count extinguished it, the mandatary had to concede and the count acknowledge that the peasants held the valley in free allodium (*S+m Borrellus, comes, qui istum aloudem confirmo ad francum*),[44] meaning tax-free. The fact that it was the residents who acknowledged that they had to pay the *servitium* or, conversely, free themselves of it, does not necessarily mean that the *servitium* was a collective obligation. We should notice that the *commanentes* are identified by the name of each head of household, which may indicate that the *servitium* was an individual and family tax, in the sense that it was paid by each head of household for the land of the fisc that they owned and farmed. Yet at the same time, the fact that they all appeared in the trial together may also indicate the collective commitment that everyone would pay what they were supposed to. However, if the *servitium* was paid for the land of the fisc, as we believe, perhaps a distinction should be made between family-owned land and communal land, both in the fisc. Let us further examine this.

To take advantage of the grass in meadows and pastures and uncultivated fiscal lands in general, the peasants or peasant communities in all countships paid a specific tax, the pascuarium, to the counts and bishops by provision of the Carolingian kings, while the abbots were paid them in abbey domains with immunity, also on provision from the monarchs.[45] Given the omnipresence of wasteland, especially in the mountainous regions, livestock must have been very important in the period, hence the pascuarium was, too, and therefore communities and lords fought over it. One good example of this is a lawsuit filed against Count Guifré of Besalú by the Bishop of Girona in 950. He was promoting Bishop Gotmar's *mandatrius et assertor* against the *commanentes* living in thirteen villas and farm hamlets in the countship of Besalú, in El Ripollès (Vilallonga de Ter, Setcases, El Catllar, Tregurà, Junents, La Nou, Abella, Pelencà, Llanars, El Reixac, *Frauro*, Freixenet and Pujafrancor), for acknowledgement that they had to pay the cathedral of Girona the *servitium*, that is pascuarium, the equivalent to one-third of the swine and sheep for these villas and hamlets and everything in them.[46] In response, the peasants' mandatary argued that the villas and hamlets and everything in them were *alodia* under his authority, for which it was never the custom to pay the cathedral the tax called the pascuarium.[47] However, despite the peasants' arguments, the bishop won the lawsuit because the court deemed that the Carolingian precepts that the episcopal party submitted prevailed.

We can deduce from this lawsuit that the pascuarium was a *censum* equivalent to the *servitium* or which was paid as a *servitium*, which we interpret as payment that the peasants made for a right to use or as a service for the pastures of the fisc for their livestock.[48] As the justifying material base was uncultivated fiscal lands open for community use, what remains to be ascertained is whether the pascuarium was a family tax or a collective tax divided among residents. In any case, it seems clear that it was a *servitium* unlike the one paid for the croplands, which was in fact a family payment. We have a document illustrating this.

In 1000, in Sant Feliu de Lloberes parish within the township of Sant Feliu de Codines, in the Vallès Oriental region, a conflict was resolved between the powerful magnate Gombau of Besora, who had received the villas of the Vallès with their public goods and rights from the count as a benefice or fiefdom, and two peasants and local minor lords. The dispute involved a vineyard which the pair had planted on a patch of land that used to be wasteland or partly barren, which Gombau considered part of the fisc and therefore subjected to the *servitium*: *Quia fisci est et fisci servitium debet persolvere*. Gombau threatened to confiscate the vineyards from them or force them to buy it, which the affected parties considered unjust because they said that the land was not part of the fisc but theirs and tax-free. Finally, they managed to prove this by means of witnesses: they had not paid the *servitium* for the vineyard for more than 30 years, and therefore they did not have to pay anything (*per has triginta annos nullo servicium fiscalem exigentem, et franchitatem obtinet et franchitatem debet adfieri, sicut iuramus in Domino*).[49] Apart from the outcome, the importance of this conflict is what we can deduce about the custom that owners of cultivated lands in the fisc had to pay the *servitium* for them either individually or as a family.

And there are a few final questions. Economically speaking, what did the *servitium* consist in? Was the *ser-*

vitium everything that non-governing men owed to the authority? We shall try to answer this by examining two final trials. In 913, a surprising trial was held before Count Gausbert of Empúries, Viscount Gotmar and nine judges, of which only the sworn statement of the witnesses taken in the church of Santa Maria de Vilamacolum remains. Guibert, the count's *assertor et mandatarius*, filed suit against the men of the villa *Mocoron* (Vilamacolum) in the countship of Empúries for the *servitium* which he claimed they were supposed to pay the city of Empúries and the count: *interpellavit istos suprascriptos et istas suprascriptas, quod istum servitium suprascriptum debuissent facere ad Impurias civitate et ad Gauceberto comite*. But the men of Vilamacolum presented 32 witnesses who declared that these men had wholly owned their houses, courts, gardens, lands, vineyards, meadows, pastures, lakes, fisheries, garrigues and everything in the villa for over 30 years in a peaceful, fair and lawful way, such that after this period they never had to provide guard and vigilance services (*scubias*, *guaitas*) to the city of Empúries or the descendants of Count Gausbert, nor did they ever have to serve in the comital army or work on restoring roads or paths (*calcinas*), nor did they have to house the public officials (*paratas*), nor did they ever have to pay any *eredes*, nor any tax, toll or service (*nec nullum censum nec functionem nec tributum nec nullum servitium eis nunquam impenderunt nec fecerunt*), but instead they and their heirs wholly owned the villa, with all its terms and districts.[50]

There is no doubt that despite the fact that the word *servitium* could be used to designate a specific service or tax obligation, such as the pascuarium, *servitium* is also the word that encompasses the entire set of fiscal obligations of individuals, families and communities. Nor is there any doubt about the relationship between the villa and the *servitium* as a set of fiscal obligations, a relationship stemming from the status of the villa as a fiscal district and from the fact that as a whole it was a fiscal asset or had fiscal assets in it. In the case examined, it seems clear that all the goods in the villa belonged to its inhabitants, and therefore as there were no public goods in Vilmacolum, nothing had to be paid to the fisc for the public land, and, in fact, in 30 years or more nothing whatsoever had had to be paid. The taxes for people were a different matter. If some of the taxes of the *servitium* were on people, which the document does not state, they were not paid in Vilamacolum either because, as they had not been paid in 30 years, the obligation would have been extinguished.

According to the witness statements in the lawsuit in Vilamacolum, the *servitium* was theoretically comprised of the military services, public works, accommodations or assistance for public servants and a variety of taxes and tolls, including, we imagine, the pascuarium paid to use the open lands for pasture. Obviously, we can imagine that the taxpayers could exchange the military service and public works for monetary payments, which ultimately prompts us to try to discern the material content of the payments made to the fisc. What specifically did the people pay to the authority or his mandataries or beneficiaries? One trial, which brings us back to the domain of Girona cathedral, may help us answer this question.

In 980, the Bishop of Girona filed a lawsuit against the inhabitants of the villa *Palaz*, which may be the modern-day Palau de Santa Eulàlia or the site near Palol in the township of Torroella de Fluvià. *Palaz* was almost certain the villa *Palatiolo* which Countess Riquil·la had donated to the Bishop of Girona as allodium in exchange for the allodium of the Aro Valley in 939.[51] To a countess, the word allodium must have meant a domain in which she had primarily fiscal ownership, and perhaps dominical as well, that is, the villa's patrimonial and public goods and rights with the corresponding taxes. In the times of Bishop Miró Bonfill (970-984), the men of *Palaz* detached themselves from obedience to the cathedral's authority: *ipsum alodem qui dicitur Palaz evaserunt de dictioni prefate sedis*, perhaps taking advantage of the crisis caused by this prelate's enthronement in Girona.[52] Given that the villa was within the countship of Empúries, and that *Palaz* would come to depend on the comital authority if this rebuff were accepted, apparently both the count and bishop presided over the trial, only the outcome of which we know. The men of *Palaz* submitted a deed in their favour, which the court considered overtly falsified, so they lost the trial. At that point, the bishop thanked the count for doing justice by standing by him, and following a precept from the *Llibre Jutge*, which advised tempering the law's severity against impoverished losers,[53] he donated the villa in benefice to its inhabitants (*ipsum alodem quem de potestate prefate sedis evaserunt, eis beneficiamus*). He stated that thus in the future they would not have to pay the dominical renders: *ut de ipsas terras taschas non donent, nec de ipsas vineas quartum nec medium*. However, they would have to pay the other services and taxes (*functiones et redibitiones*),[54] as the men in other villas held by the cathedral had to do, which most likely referred to fiscal obligations, perhaps mixed with religious obligations as well. Indeed, the bishop ordered them to pay the *oblias* in the Octave of the Nativity, one side of pork with the rump or two capons, a hemina of barley, two round loaves of wheat bread and a hemina of wine every year: *oblias quoque in octabas Natalis Domini persolvant aut costolatico unum cum ancha, aut capones II, et eminas singulas de ordeo, et focatias duas triticeas, et eminas singulas de vino, per singulos annos*.[55] Who knows? Perhaps this is what remained of the *servitium* in the domain of Girona cathedral by the late 10th century.

Conclusions or impressions

These stories took place 1,000 years ago. Therefore, it would be overly bold to think that our interpretation is unquestionably correct. It is merely the one we believe is

the most likely today. For this reason, the word "conclusions" may be a bit excessive, and it may be better to call them "impressions" instead.

In the Carolingian system, the villas were primarily a sphere of sustenance which guaranteed communities' survival, as well as the underlying public districts where the powerful exercised their respective governing functions and were guaranteed social status. As public districts, the authority over the villas corresponded to the individual or institution in charge (the Carolingian king in the 9th century and the counts in the 10th), who donated or assigned it to their delegates or mandataries, their loyalists and the Church to exercise public functions and ensure the receipt of services and allegiances.

When they were appointed during the era of effective Carolingian rule in Catalonia, that is, the 9th century, the counts received the villas which comprised the comital endowment in benefice, which were most of those that existed, that is, the ones that the monarchy had not previously donated or assigned to other loyalists or institutions. With the villas in the comital endowment, the counts assured their own existence and organised the administration and governance of the countships by paying their mandataries and loyalists for their services and assigning them villas in benefice. Those who received the donations or assignments of villas under the counts were therefore the *domini* or lords who exercised public functions there and earned profits from the public properties and rights that were theirs. In the 9th century, when one count succeeded another, there were changes in the distribution of the benefices, that is, in the possession and governance of the villas, especially if the previous count had been stripped of his countship or executed for treason, because the new count placed his own men, or some of them, at the helm of the villas that he could or wanted to, which generated conflicts, some of which ended up being resolved in court. We have testimonies of these in judicial disputes over villas between secular and ecclesiastic lords, which should come as no surprise if we bear in mind that almost all the documentation conserved from this period comes from Church archives.

In the borderlands which the authorities considered deserted, the villas were created on wasteland, meaning public land, with the result that the entire township and those who were it in or whatever the peasants had created in it were part of the fisc. The peasants that had come and held lands by *aprisio* there on behalf of the authority and its representative and beneficiary in the zone held the land but were not its owners. In inland villas, however, the *fisci* coexisted alongside properties owned privately (by peasants, landowners and minor and great lords), and therefore rural possessions and family properties coexisted alongside public assets for communal use, such as forests and pastures. The villas were the guarantee of survival for both *domini* and peasants, so in any trial where a community was at odds with their lord, the first job was to define the terms of the villa in dispute.

The men of the villas owed the *domini*, that is, the authorities, their representatives and their beneficiaries, the *servitium*, which was the equivalent of a tax and was comprised of a diverse array of services and payments. However, based on a past which we imagine to be unitary, the content of the *servitium* must have varied to accommodate the particular relations between lords and peasants in each estate and the greater or lesser importance of the *fisci* in each villa. Generally speaking, the *fisci* included the duty to perform military services and public works, to house public mandataries when they were passing through and to pay a range of taxes and tolls, including the pascuarium. The pascuarium was paid for using the grass in the meadows and pastures, which were considered property of the authorities, although the communities had the right to use them. For the lands of the fisc used for crops, the peasants who held and farmed them paid a tax or special *servitium* which was also equivalent to a personal or family right to use. There may have been other taxes or fiscal tolls that the peasants who were heads of household paid for their persons and goods. The military and other personal services must have soon been exchanged for set payments in many estates, and the same must have taken place with the accommodations. The resulting taxes, just like other taxes and tolls, were paid with livestock and crops.

When a peasant community brought their villa to trial as allodium it was because they did not acknowledge any ownership right external or superior to the families of the estate. In fact, they were denying that there were *fisci*. In this case, even the forests and pastures would be the community's, with full rights. However, they were not denying – indeed they could not – that the *dominus*, as the lord representing the authority, could ask for the *servitium*, that is, services, accommodations and other taxes and tolls. Only if they had never paid them or if no one had requested them for more than 30 years were the peasants exempt from them by waiver, and in this case the villa was indeed a free allodium.

Therefore, what was at stake in the trials we have examined was not negligible; it was literally both parties' way of life and survival. The fact that more than 500 peasant heads of household in Sant Joan valley appeared in the trial in 913 to acknowledge that everything belonged to the monastery of Sant Joan de les Abadesses, the land and the *servitium*; the fact that more than 1,000 peasants in Artés valley did so in 938 with the same outcome, this time favourable to the cathedral of Vic; and the fact that the residents of 13 villas and farm hamlets in the upper Ribes valley, in the Serra del Catllar and Serra Cavallera mountains in El Ripollès, travelled to Besalú in 950 for a trial on the pascuarium, which they lost to the cathedral of Girona, is no mere formality. Instead, they were matters of vital importance. Public goods and rights were vitally important, as Bishop Miró Bonfill was keenly aware of in 980, when he was pitted against the men of Palau de Santa Eulàlia over land and the *servitium*, and perhaps

also against his own conscience, as he chose to forfeit the dominical renders but conserve the *servitium*, or what we believe to be equivalent to the *servitium* at that time in the late 10th century.

We have no yardstick to determine the economic importance of the public goods and rights, yet they were very important, perhaps even more so than the dominical renders. On the other hand, we cannot forget the symbolic import that public goods and services must have had as acknowledgement of the power and authority of the person or institution who held or benefitted from them.

When the comital power became hereditary in the 10th century and the counts replaced the king, the ownership and governance of the villas with the fiscal incomes stemming from the public goods and services on them also tended to be transmitted by inheritance among the families of public mandataries, vassals or loyalists who had received them in benefice from the royal or comital authority. This was a decisive step towards the stabilisation of local power which, in turn, led to the advent of the feudal nobility or aristocracy. At that time, when the public goods and services of the villas became hereditary and part of the assets of the new aristocracy, they ceased being public and became feudal ownership over and above peasant ownership, wherever it existed.

Notes and references

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[11] It is the basis of the invaluable study by Ramon Martí. "La integració a l'"alou feudal' de la seu de Girona de les terres beneficiades pel 'règim dels hispans'. Els casos de Bàscara i Ullà. Segles IX-XI". *Estudi General*, no. 5-6 (1985-86), pp. 49-62.

[12] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.*, doc. 7.

[13] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V..., op. cit.,* doc. 1.

[14] Ramon d'Abadal. *Catalunya carolíngia. II..., op. cit.*, pp. 116-151.

[15] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* docs. 18, 53, 63, 80, 81, 82, 84, 86, 104, 113, 171 and 172.

[16] This happened in trials in 892, 893, 900 and 903: Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* docs. 81, 82, 84, 86, 104 and 113.

[17] The trials over properties located in these zones and the witnesses' testimonies of the terms date from 817, 841, 881, 888 and 921: Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* docs. 7, 18, 53, 63, 171 and 172.

[18] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* docs. 18 and 22.

[19] Ramon d'Abadal. *Catalunya carolíngia. II…, op. cit.*, pp. 120 and 125.

[20] Pierre Bonnassie. *La Catalogne du milieu du Xe a la fin du XIe siècle*. Université de Toulouse-Le Miral, Toulouse 1975, I, p. 152.

[21] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 53.

[22] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 63.

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[25] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 22.

[26] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* docs. 80, 81 and 84.

[27] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 84.

[28] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* docs. 104 and 113.

[29] *Villa que vocatur Farus, quam sua voluntate et nulla predicte ecclesie utilitate quondam Bernardus comes quodammodo comutando seu concambiando sepenominate matri ecclesie inreverenter subtraxerat* (Ramon d'Abadal. *Catalunya carolíngia. II…, op. cit.*, p. 128).

[30] Pierre Bonnassie. *La Catalogne…*, pp. 154-155.
[31] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* docs. 19, 20 and 21.
[32] Ramon d'Abadal. *Catalunya carolíngia. II…, op. cit.*, p. 129.
[33] The rebel Count Guillem had died in Barcelona in 850, executed by a traitor.
[34] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 30.
[35] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 53.
[36] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 63.
[37] Pere Ponsich. *Catalunya carolíngia. VI..., op. cit.*, doc. 92.
[38] Ramon Ordeig. *Catalunya carolíngia. IV…, op.cit.*, doc. 119.
[39] Ramon Ordeig. *Catalunya carolíngia. IV…, op. cit.,* doc. 120.
[40] Ramon d'Abadal. *Catalunya carolíngia. II…, op. cit.*, pp. 215-217.
[41] The houses, lands, etc. *quod rex Odo per consultum Wifredi comiti condam concessit ad domum Sancti Petri seu etiam ad Gotmare episcopo, qui eo tempore regere videbatur prefatum ecclesiam, vel a cunctos successores eius, unde per dictum servicium impendere deberemus ad dictam ecclesiam eiusque episcopis quod regibus vel comitibus impendebant* (Ramon Ordeig. *Catalunya carolíngia. IV…, op. cit.,* doc. 443).
[42] Ramon d'Abadal. *Els primers comtes catalans*. Editorial Vicens-Vives, Barcelona 1965 (second edition), pp. 85, 92, 99 and 113.
[43] *Habitatores vero locorum illorum servicium et obsequium quod comitibus actenus impendebant, ab hinc jamdicto episcopo impendant ac successoribus ejus* (Ramon d'Abadal. *Catalunya carolíngia. II…, op. cit.*, p. 297).
[44] Ramon Ordeig. *Catalunya carolíngia. IV…, op. cit.,* doc. 1229.
[45] Ramon d'Abadal. *Catalunya carolíngia. II…, op. cit.*, passim.
[46] The mandatary's *petitio* is that *servitium debent impendere, id est, pascuario, ipsa tercia parte de ovos et porcos* (Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 288).
[47] *Unde ego Gaugines, mandatrius, in meis responsis dixi ... alodia quod nos tenemus in nostra potestate unquam non fuimus consueti donare censum quem dicunt pascuario ad domum Sanctae Mariae, caput sedis Gerundensis* (Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V…, op. cit.,* doc. 288).
[48] In 1013, when Count Ramon Borrell and Countess Ermessenda wanted to repay the peasants of Vilalba, in El Vallès, for their unfair sale of a meadow for the peasants' common use, we imagine, they rescinded the sale and gave them the meadow to have and hold forever *sine reddibitionis census et fiscus tributi*, an expression that may be equivalent to the pasquarium from the 9th and 10th centuries. This reveals that it was still customary to pay the fisc for the right of pasturage in the early 11th century. Gaspar Feliu and Josep M. Salrach (dirs.). *Els pergamins de l'Arxiu Comtal de Barcelona de Ramon Borrell a Ramon Berenguer I.* Fundació Noguera, Barcelona 1999, doc. 105.
[49] Ignasi J. Baiges and Pere Puig. *Catalunya carolíngia. VII..., op. cit.*, doc. 1506.
[50] Pere Ponsich. *Catalunya carolíngia. VI..., op. cit.*, doc. 143. We do not know the fiscal meaning of the words *nec eredes nunquam eis dederunt*.
[51] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V..., op. cit.* doc. 248.
[52] Josep M. Salrach, *L'assassinat de l'arquebisbe Ató (971) i les lluites pel poder en els orígens de Catalunya*. Speech welcoming Josep Maria Salrach i Marès as a full member of the History-Archaeology Section, read on 30 May 2018. Institut d'Estudis Catalans, Barcelona 2018.
[53] *Liber Judiciorum* XII, 1, 1.
[54] In the Carolingian immunity precepts, like the one that the Girona cathedral received, the words *functiones et redibitiones* designated the public taxes and services, as they were called in the 5th and 6th centuries during the times of Cassiodorus and Justinian. In this sense, they would be the equivalent of the *servitium*.
[55] Santiago Sobrequés, Sebastià Riera and Manuel Rovira. *Catalunya carolíngia. V..., op. cit.* doc. 460.

Biographical note

Josep Maria Salrach (Llinars del Vallès, 1945) holds a Bachelor's and PhD from the Universitat de Barcelona. He has taught at the Universitat de Barcelona and the Universitat Pompeu Fabra. He specialises in history from the High Middle Ages and is the author of numerous books, including *El procés de feudalització, segles III-XII* (1987), *Catalunya a la fi del primer mil·lenni* (2004) and *Justícia i poder a Catalunya abans de l'any mil* (2013).